

REMARKS

Applicant respectfully thanks the Office for the indication that claims 3, 11 and 20 are merely objected as depending upon a rejected base claim, but are otherwise allowable.

The Office has maintained all rejections of the remaining claims from the previous Office Action. Particularly, claims 1, 2, 4, 9, 10, 12, 15 and 16 stand rejected under 35 U.S.C. §103(a) as unpatentable over Bork in view of Husher, claims 5-7, 13, 14, 17 and 18 stand rejected as obvious over Bork and Husher and further in view of Jacobsen; claims 8 and 19 stand rejected as obvious over Bork, Husher and Jacobsen and further in view of Bynek; and claim 21 stands rejected as obvious over Bork and Husher and further in view of Pearce.

Husher was newly cited in the previous Office Action. The other prior art references were fully discussed the even earlier Office Actions and responses thereto. Therefore, the response to the immediately preceding Office Action discussed the Husher reference almost exclusively. Applicant's primary argument was that Husher did not disclose the limitation found in all of the independent claims of the present application of issuing an alert as a function of the direction from the first device to the other device relative to the orientation of the first device. We shall hereinafter refer to this direction concept as "bearing" in order to simplify the language in this document. Also note that there are two "direction" concepts in Husher that we also must keep in mind. Specifically, Husher discusses the direction of travel of the trucks (which he refers to as "trajectory" and which we shall hereinafter refer to by the same name) as well as

the direction from the first truck to the second truck. (Note that, in the previous amendment, Applicant did not necessarily always use these terms consistently with the convention just defined above; Nevertheless, it is believed that the particular directional concept that was being discussed in any part of the previous amendment was nevertheless clear from the context of the discussion.)

In the Final Office Action, the Office reasserted the rejections and replied to Applicant's argument. Specifically, the Office replied:

Husher does disclose distance, direction for hazards (column 3, line 32, and lines 44-49), and a warning is given as the severity of a hazard increases (column 3, lines 34-35, lines 47-56; and column 6, lines 34-47), and the *vehicle is [sic, vehicle's]* equipped with devices are in motion relative to each other (column 5, lines 41-42); it is obvious that the direction, heading, and relative velocity determine the certain direction relative to orientation of device.

Applicant respectfully traverses. It appears that the Office is relying on the fact that Husher discloses determining and displaying the attitude to another truck as constituting a teaching of indicating an unsafe condition when another of said devices has a certain "bearing" relative to the first device.

This is inaccurate. It appears that the Office is either misinterpreting Husher and/or using impermissible hindsight in reconstructing the present invention from the references (particularly, Husher). Specifically, as noted in response to the preceding Office Action, determining and displaying bearing is quite different than issuing a warning responsive to a certain bearing condition (e.g., your gun is pointed toward another hunter). The only disclosure in Husher as to the criterion for indicating a dangerous state is found in column 3, lines 47-56, where it states:

It can detect any unusual change in the parameters and display an appropriate indication to the operator of the "vehicle." For example, this capability allows for alerting the operator if another vehicle has approached so closely that it is in a "shadow" zone and cannot be continuously monitored by the system due to signal blockage. In such a case, a high level alarm is activated to draw the operator's attention to this hazard, and the last known position and direction are indicated.

Thus, the only criterion disclosed in the specification for indicating an unsafe condition is proximity (i.e., distance). Although the transponder module knows and displays the direction to the other truck, the only criterion disclosed in the specification for issuing the warning is proximity.

The fact that Husher does not disclose bearing as a criterion for danger makes sense because bearing would not be reasonably representative of danger in the truck traffic environment of Husher. In fact, even bearing in combination with proximity would not be significantly more predictive of danger than proximity taken alone (whereas bearing and/or the combination of bearing and proximity is crucial in the hunting environment). Specifically, if two trucks are driving on non-intersecting trajectories, there is no danger. In the truck traffic environment of Husher, (1) proximity, (2) trajectory of both trucks, or (3) a combination of trajectory of both trucks and proximity would be predictive of danger. As mentioned above, the trajectory of a truck is an entirely different piece of information than the bearing from one truck to another.

Note that the above discussion of trajectory is for explanatory purposes only (namely, to explain that using bearing as a criterion for danger in the truck traffic environment would not even make sense, in any

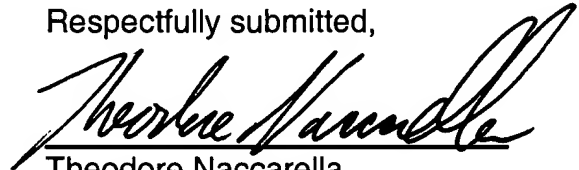
event) as Husher actually does not even disclose trajectory as a criterion for danger, but merely proximity (column 3, lines 34-47).

Referring now to the specific claim language, Applicant has herein amended claim 1 to positively recite that the indication of an unsafe condition “is responsive to determination that another of said devices is in a certain direction relative to said orientation of said device”. Particularly, this amendment addresses the possible concern of the Office that the previous claim language of “indicat[ing] if an unsafe condition exists, said unsafe condition comprising another of said devices being in a certain direction ...” read on Husher’s merely displaying bearing information. Applicant is uncertain if this was the stumbling point on which the rejections were, but has eliminated it as a possible stumbling block via this amendment. Particularly, reciting that the indication of an unsafe condition is “responsive to” a particular bearing clearly distinguishes over merely displaying bearing because it positively recites an action that occurs when the “certain direction” is determined, whereas merely displaying bearing involves no positive action as function of any particular direction (i.e., it simply displays the bearing regardless of what the bearing is).

Accordingly, claim 1 and its dependent claims 2-8 and 22 distinguish over the prior art of record. Claim 9 already included the “responsive to” language, but has nevertheless been amended to improve its form and not for patentability purposes. Hence, claim 9 and its dependent claims 10-21 also patentably distinguish over the prior art of record.

In view of the foregoing amendments and remarks, this application is now in condition for allowance. Applicant respectfully requests the Examiner to issue a Notice of Allowance at the earliest possible date. The Examiner is invited to contact Applicant's undersigned counsel by telephone call in order to further the prosecution of this case in any way.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Theodore Naccarella', written over a horizontal line.

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